

ARTICLE XVI

Nuisances and Prohibited Uses

16.1 DEFINITION

For the purposes of this Ordinance, the word “nuisance” is hereby defined as any person or corporation doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition, or thing, either:

- (1) Injures or endangers the comfort, repose, health, or safety of others; or
- (2) Offends decency; or
- (3) Interferes with, obstructs, or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainageway; or
- (4) In any way renders other persons insecure in life or the use of property; or
- (5) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

16.2 ILLUSTRATIVE ENUMERATION

The maintaining, using, placing, depositing, leaving, or permitting to be or remain on any public or private property of any of the following items, conditions, or actions, are hereby declared to be and constitute a nuisance:

- (1) Noxious weeds.
- (2) Accumulation of rubbish, trash, refuse, junk, and other abandoned materials, metals, lumber, fifty-five (55) gallon drums, or other things, unacceptable to surrounding landowners.
- (3) Any condition which provides harborage for rats, mice, or other vermin.
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or if the building or use presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

- (5) All disagreeable or obnoxious odors and stenches, which extend beyond the lot line from which they emanate, as well as the conditions, substances, or other causes which give rise to the emission or generation of such odors and stenches, except livestock operations.
- (6) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (7) The pollution of any well or cistern, stream, lake, canal, or body of water by sewage, dead animals, industrial wastes, hazardous wastes, toxic wastes, nuclear wastes, or other toxic substances.
- (8) The pollution of any land by sewage, industrial wastes, hazardous wastes, toxic wastes, nuclear wastes, or other toxic substances.
- (9) Inoperative motor vehicles, whether on public or private property, will be considered a nuisance by the application of the following guidelines:

Inoperative vehicle means any motor vehicles from which, for a period of six (6) months, the engine, wheels, or other parts have been removed, or on which the engine, wheels, or other parts have been altered or damaged or otherwise so treated that the vehicle is incapable of being driven under its own power.

This section does not apply to a motor vehicle that is kept within a building when not in use, to historic vehicles over twenty-five (25) years of age, or to motor vehicles on the premises of a place of business engaged in the wrecking or junking of motor vehicles.

Any violation of this paragraph is subject to the provisions and remedies of Article XIV, Paragraphs 14-4 and 14-5.

16.3 PROHIBITED

It shall be unlawful for any person to cause, permit, maintain, or allow the creation or maintenance of a nuisance.

16.4 NOTICE TO ABATE - PROCEDURES AND PENALTIES

Whenever a nuisance is reported to the Zoning Enforcing Officer, the complainant will sign the complaint form describing the type or forms of nuisance, the location, and the owner or resident.

Investigation by the Zoning Enforcing Officer will determine the validity of the complaint, and, if in his judgment is determined as valid, will proceed to serve written notice upon the owner or resident, by mail or by person, and will state the form or forms of the nuisance, and will allow a minimum of thirty (30) days for the complaint to be addressed or abated.

In cases where the complainant does not agree with the findings of the Zoning Enforcing Officer, appeals may be taken by following the procedure outlined in Article X, Paragraph 10.4.

At the end of the thirty (30) day grace period, if no action to address the complaint or abate the nuisance has been made by the owner or resident, the Zoning Enforcing Officer may, if in his judgment, the nuisance warrants a hearing by the Zoning Board of Appeals for recommendation on possible prosecution, will so schedule a hearing for the next regular meeting of the Zoning Board of Appeals, providing that a minimum of seven (7) days notice has been given to the owner and/or resident prior to the scheduled meeting, informing the owner and/or resident of the action being taken.

A sworn certification by the Zoning Enforcing Officer that notices had been mailed to the owner and/or resident shall be acceptable in lieu of certified mail. At the hearing, the defendant may appear in person, by agent, or by attorney.

The Zoning Board of Appeals, at their regular meeting, will hear the testimony and recommend whether or not the State's Attorney should proceed with legal action to abate the nuisance complaint. Penalties for violations of this Article will be assessed in accordance with Article XIV, Paragraph 14.4.

16.5 CONTENTS OF NOTICE

The notice to abate a nuisance issued under the provisions of this Article shall contain:

- (1) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.
- (2) The location of the nuisance, if the said nuisance is stationary.
- (3) A description of what constitutes the nuisance.
- (4) A statement of acts necessary to abate the nuisance.
- (5) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the county may abate such nuisance and assess the cost thereof against such person or corporation.

16.6 SERVICE OF NOTICE

The notice to abate a nuisance shall be served by the Zoning Enforcing Officer.

16.7 ABATEMENT BY COUNTY

Upon the failure of the person or corporation upon whom notice to abate a nuisance was served pursuant to the provisions of this Article to abate the same, Zoning Enforcing Officer may proceed to abate such nuisance and prepare a statement of costs incurred in the abatement thereof.

16.8 COUNTY'S COSTS DECLARED LIEN

Any and all costs incurred by the County in the abatement of a nuisance under the provisions of this Article shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.